

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

CUSH-N-GO, LLC, a Minnesota
Limited Liability Company; Michael
Lattery, individually and o/b/o Cush-
N-Go, LLC; Brent Walton, individually
and o/b/o Cush-N-Go, LLC,

Plaintiffs,

v.

ORDER

Civil No. 11-2494 ADM/JSM

ANTHONY KRAMPEL, JR., formerly
holding title of “Governor”, “Chief
Manager”, and “Putative Member” of
Cush-N-Go LLC, a resident of Aurora,
Ohio,

Defendant.

Marc Kurzman, Esq., Kurzman Grant Law Office, Minneapolis, MN, on behalf of Plaintiffs.

Vytas Rimas, Esq., Rimas Law Firm, Minneapolis, MN, on behalf of Defendant.

On September 13, 2012, the undersigned United States District Judge heard oral argument on Plaintiffs’ Motion to Grant Default Judgment [Docket No. 39]. Plaintiffs’ Motion for Default Judgment is denied.

Default judgments are not favored under the law. United States v. Harre, 983 F.2d 128, 130 (8th Cir. 1993). This case does not warrant the most severe sanction under Federal Rules of Civil Procedure 37(b). Although this case has been frustrated by Defendant’s unwillingness to engage in good faith discovery, no motions were filed to compel discovery and the leap to default judgment ignores Rule 37(b)(2)’s myriad other remedies. Mr. Krampel, previously pro se, now has hired counsel as of March 26, 2012, who is engaged with the process at motion.

As the case moves forward, this Court expects no further delays and it orders Defendant to submit to an in-person deposition by Plaintiffs' attorney on or before October 1, 2012. Defendant may choose to be deposed either in Minnesota or in Arizona, with costs for travel covered by Defendant.

The Court amends the dates in the Pretrial Scheduling Order of January 25, 2012 as follows:

Discovery and Non-Dispositive Motions

October 1, 2012 - All depositions shall be completed on or before this date.

All discovery of any kind, including expert depositions, shall be commenced in time to be completed by this date.

October 15, 2012 - All non-dispositive motions and supporting pleadings shall be served, filed and HEARD by this date.

Dispositive Motions and Trial

December 1, 2012 - All dispositive motions and supporting pleadings shall be served and filed on or before this date.

This case shall be ready for trial as of January 1, 2013. With the exception of these changes in date, the remainder of the Order of January 25, 2012 remains effective.

Based upon the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that Plaintiffs' Motion for Default Judgment is **DENIED**.

BY THE COURT:

s/Ann D. Montgomery
ANN D. MONTGOMERY
U.S. DISTRICT JUDGE

Dated: September 17, 2012.